

**Asheville City Council Meeting Minutes
Tuesday – January 23, 2007 - 5:00 p.m.**

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Diana Hollis Jones; Councilwoman Robin L. Cape; Councilman Jan B. Davis; Councilman Bryan E. Freeborn; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and Deputy City Clerk Phyllis Corns

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Mumpower gave the invocation.

I. PROCLAMATIONS:

II. PRESENTATIONS & REPORTS:

III. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 16, 2007**
- B. RESOLUTION NO. 07-17- RESOLUTION APPOINTING COUNCILWOMAN ROBIN CAPE AS THE LIAISON TO THE ENERGY AND ENVIRONMENT COMMITTEE**

RESOLUTION BOOK NO. 30 – PAGE 194
- C. RESOLUTION NO. 07-18 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY AN EASEMENT OVER A PORTION OF CITY-OWNED PROPERTY IN THE EAST RIVERSIDE REDEVELOPMENT PROJECT TO TILMAN AND SABRINA JACKSON FOR A PRIVATE RESIDENTIAL SEWER LINE**

Summary: The consideration of a resolution authorizing the City Manager to convey an easement over a portion of city-owned property in the East Riverside Redevelopment Project to Tilman and Sabrina Jackson.

Tilman and Sabrina Jackson have requested an easement over a portion of City-owned property in the East Riverside Redevelopment Project Area for a private residential sewer line.

The City owns property (a portion of PIN 9648.10-25-8823) located between Tolula Lane and Choctaw Street and Town Branch approximately 400 feet west of McDowell Street. The current and anticipated use of the portion of the property impacted by the sewer is for park green space with plans for an improved greenway path along Town Branch.

Tilman and Sabrina Jackson purchased property from the City adjacent to the greenway parcel in March, 2006 and are planning to erect a single family dwelling. Due to the location of water lines and sewer lines the requested easement would provide the most direct and efficient route to the sewer main. The easement would be solely for the purpose of installing and maintaining the sewer line and would not restrict the City from constructing a greenway path or planting trees which is the proposed use of the City's property.

The City recently obtained an appraisal of its property in the amount of \$130,000 reflecting a per square foot value of \$1.72. The easement comprises an area of approximately 1,165 square feet. The easement value is calculated at 50% of the land value rendering an easement value of \$1,001.90 rounded to \$1,000.

Pros:

- The easement will enable the Jacksons to proceed with construction of a new home on their property which will increase the tax base, generate economic activity, further smart growth objectives of urban densification and provide needed housing.
- The easement will provide the most practical and efficient access to the public sewer.

Con:

- The disadvantage is the land within the easement area (1,165 sq. ft.) cannot be built upon or planted with large trees

Approval of the resolution will authorize conveyance of the easement to Tilman and Sabrina Jackson for the purpose of a private residential sewer line.

Community Development, Parks & Recreation and Water Resources staff recommends adoption of a resolution authorizing the City Manager to convey an easement over a portion of city-owned property in the East Riverside Redevelopment Project to Tilman and Sabrina Jackson.

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D. RESOLUTION NO. 07-19 - RESOLUTION REAPPOINTING LEESA GIBBS AS A MEMBER OF THE FIREMEN'S RELIEF FUND

RESOLUTION BOOK NO. 30 – PAGE 196

E. RESOLUTION NO. 07-20- RESOLUTION REAPPOINTING MAYOR TERRY BELLAMY AS A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

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F. RESOLUTION NO. 07-21 - RESOLUTION REAPPOINTING HANNA MILLER, KAREN AUSTIN, ANDREW GOLDBERG, RYAN PICKENS AND APPOINTING YURI KOSLEN TO THE ASHEVILLE TRANSIT COMMISSION

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Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Newman moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Jones and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE INTENT TO PURCHASE 8.45 ACRES ON OR NEAR HUNT HILL PLACE AND ARDMION PARK DRIVE, HAVING AN ADDRESS OF 56 HUNT HILL PLACE AND BEING GENERALLY KNOWN AS McCORMICK HEIGHTS

Mayor Bellamy said that his public hearing was originally scheduled for January 9, 1997, but continued, at staff's request, to this date. At the request of City staff, and in order for staff to continue their on-going due diligence, it was the consensus of Council to withdraw this public hearing and reschedule at a later date.

In a similar matter, Mayor Bellamy said that many people had attended this meeting with the understanding that City Council would consider relocation assistance funds for the tenants of McCormick Heights.

City Manager Jackson said that staff recommended postponing action on the relocation assistance funds until after the due diligence, regarding the City's intent to purchase McCormick Heights, by City staff was completed, whether the deal was consummated or not. Council does have the option to amend the 2006 Consolidated Annual Action Plan at this meeting for that issue because in the public hearing notice, it included a proposal for housing assistance to tenants of McCormick Heights Apartments. The public hearing for the other amendments to the 2006 Consolidated Annual Action Plan is scheduled for this meeting as well.

Councilman Mumpower questioned the appropriateness of creating a plan of relocation assistance before we have some certainty about the City's purchase of the property. He questioned if our offer to relocate the residents was predicated on our purchasing the property

and if there are questions about our ability to purchase the property, would that not alter our willingness to spend taxpayer dollars to relocate residents if the property is purchased by an alternate developer.

Mayor Bellamy said that regardless of whether the City purchases the property or not, some tenants cannot afford to move on their own. She cited the instance where the tenants of a Merrimon Avenue home were forced to move and the City assisted them with relocation, even though the City did not purchase the property.

Councilwoman Cape's understanding is that the City considered purchasing the property because the Housing Authority is going to shut that apartment complex down. So, regardless of whether the City steps in or not, the tenants are being told they have to move out.

After it was determined that a June 30, 2007, date was the eviction date of the tenants, Councilman Davis said that there is time for the City to put more thought into a relocation assistance proposal.

Vice-Mayor Jones said that the City will not walk away from their commitment to help tenants with their relocation.

Community Development Director Charlotte Caplan said that staff had considerable discussion with the Affordable Housing Coalition and with the Housing Authority about the likely needs for assistance, and this was predicated on the City buying the property. This is the package of assistance that we felt appropriate to recommend to Council under the circumstances of the City purchasing the property. The City contract with the Affordable Housing Coalition to manage this process. They would go door to door and describe what they have to offer and offer their services. They would then meet one on one with every tenant at the tenant's convenience and explore the tenants housing needs, financial needs and suggest appropriate housing options for that tenant. There is a range of housing options available depending on the tenant's circumstances. A lot of the tenants already have Section 8 vouchers which are transferable to other property. Also, the Housing Authority has sufficient housing units in their public housing for anyone to move into and the Affordable Housing Coalition is knowledgeable and skilled at locating other rental opportunities. After establishing the tenant's general needs and options, they would then help them in their search for new rental accommodations. The Affordable Housing Coalition will also check their choice of rental accommodations to make sure that it is decent and safe and that the lease terms are appropriate. The actual cash assistance to each tenant is proposed to be as follows: (1) a fixed amount for the actual physical move of \$500 or if the tenant wants to use a commercial moving company and it might be more than \$500, then the actual cost of a commercial move; (2) up to two months of security deposit; (3) the first months' rent (which always has to be paid in advance) and under this package we would pay the tenants share of that first month's rent and Section 8 would pay their share, if the tenant has a Section 8 voucher; (4) we would pay for connection transfer fees for essential utilities, e.g., electricity, gas, telephone and cable TV (if they already had those); (5) other essential expenses, e.g., like an application fee, pet deposit, adaptation for making a unit accessible for disabled person; and (6) the City would pay to the Affordable Housing Coalition a fee for administering this entire program of \$400 per tenant. Our initial estimate was \$85,000, however, we have increased that

to a maximum limit of \$120,000. This is based on actual tenant needs and it is not a flat amount per tenant and not a cash handout to the tenant - an actual reimbursement of what it costs to move that tenant.

Upon inquiry of Councilman Freeborn, Ms. Caplan said that there are 40 tenants.

Councilman Newman wondered if the City decides not to purchase the property, will the tenants have to be gone from that property by June 30, 2007. If that date is firm, then it would make sense for the City to help with relocation assistance regardless of whether the City purchases the property for redevelopment or another developer purchases. But if we are not sure that date is firm, then perhaps the City should hold off until that need arises.

City Manager Jackson said that representations were made by the Housing Authority that it was their intent to sell by the end of the calendar year and to give notice immediately for relocation into other public housing properties. It is their intent to sell, if not with the City, then with another buyer for the property at the earliest possible schedule. They have direct financial incentives to go ahead and bring closer to this operation regardless of who the eventual purchaser would be.

Councilwoman Cape's concern was the relocation package was predicated on the City buying the property. She would like to talk about an overall general policy and what role the City plays. If we play this role as we look towards purchasing the property, it would make perfect sense for us to take this role. But should the City not purchase the property, then we need to look at the larger conversation about what role the City does play, because these people need help, and how do we apply that in general terms, instead of specific terms each time. If a developer comes along, what role will they play. The Community Development Block Grant funds is an exact way we can help, but we do need to look at overall general policy rather than the specifics.

Councilman Davis agreed with Councilwoman Cape and wondered if the City does help with relocation, there is not much incentive for a developer, other than the City, to come in and help with relocation.

Mr. Bob Smith, Executive Director of the Asheville-Buncombe Community Relations Council, and Ms. Julie Brown, McCormick Heights tenant, individually spoke to Council about the need to provide relocation assistance to the residents sooner rather than later.

Mr. Fred English didn't want to see anyone living in rundown homes, but was concerned about the money. He suggested City Council investigate a similar proposal that is going on in Woodfin where we can lease the property for \$1 a year.

Mr. Alan Ditmore, Vice-President of the Asheville Homeless Network, said that to tear down houses of any kind cannot be good for the homeless and there are environmental reasons not to tear down structures. He suggested the apartments be converted into mixed income housing and auction off the empty apartments as condominiums so people will have an investment in the area.

In response to Vice-Mayor Jones, Mr. David Nash, representing the Housing Authority, said that if the transaction doesn't go forward, the property is probably looking at foreclosure. If the City decides not to purchase the property, most likely the property will have to close within the next few months. He also noted that in terms of options for the tenants, none of them want to move in public housing at this point, but he hoped they will consider public housing as an option and they can move in within 2 months.

In response to Councilman Newman, Ms. Caplan said that if Council approves funding at this meeting, they have a drawn up contract ready to go with the Affordable Housing Coalition and we would tell them to go ahead and meet necessary expenses for tenants starting tomorrow.

In response to Councilwoman Cape, Mr. Nash said that if the tenant plans to move from McCormick Heights to public housing, we do not have resources to help people move their belongings from one development to another and we would need to have their first month's rent and any utility deposit. We allow security deposits to be paid over-time, so that is not an upfront cost. If the tenants do move to public housing, then we would not need all the assistance and would not need for the Affordable Housing Coalition to mediate in most cases.

Because the majority of Council supported including the City's relocation assistance to tenants at McCormick Heights in the public hearing to amend the 2006 Consolidated Action Plan, Mayor Bellamy asked to be excused from participating in the following public hearing due to a conflict of interest, noting that she supported the City's relocation assistance for tenants at McCormick Heights. Councilman Freeborn then moved to excuse Mayor Bellamy from participating in this portion of the meeting. This motion was seconded by Councilman Davis and carried unanimously.

At this time, Mayor Bellamy turned the meeting over to Vice-Mayor Jones.

B. PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE 2006 ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

RESOLUTION NO. 07-22 - RESOLUTION APPROVING AMENDMENTS TO THE 2006 ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Vice-Mayor Jones opened the public hearing at 5:51 p.m., noting that the comments made earlier in Public Hearing Item "A" would be considered during this portion of the meeting.

Ms. Charlotte Caplan, Community Development Director, said that this is the consideration of a resolution amending the City's 2006 Consolidated Annual Action Plan. This public hearing was advertised on January 12 and 19, 2007.

Neighborhood Housing Services of Asheville has restructured its organization and activities in response to changes in the housing market that are making it increasingly difficult

for the agency to continue building quality, affordable, single-family homes. As a result, it has withdrawn from several Community Development Block Grant (CDBG)-funded new construction activities. In order to meet the U.S. Dept. of Housing and Urban Development (HUD) spending targets, it is advisable for the City to immediately re-allocate part of these funds to new, fast moving, activities that will reduce our balance of unspent CDBG funds by at least \$200,000 over the next three months.

At its meeting on January 8, 2007, the Housing and Community Development Committee considered several funding proposals and recommended three new activities for CDBG funding. A list of the amendments is as follows:

A. Proposed New Allocations:

1. \$200,000 to Neighborhood Housing Services (NHS) for direct homeownership assistance.
2. \$86,000 to Buncombe County for a mental health crisis stabilization center at 277 Biltmore Avenue.
3. \$40,000 for the installation of benches at about 30 city bus stops.

B. NHS Projects Proposed for Cancellation:

1. Infrastructure and new housing construction on Bradley Street.
2. New housing construction on scattered sites, city-wide.
3. Housing development on Brotherton Avenue.

The public hearing notices included an additional proposal for housing assistance to tenants of McCormick Heights Apartments. As a result of the earlier discussion, relocation assistance to the tenants of McCormick Heights will be included in the amount of \$120,000.

The CDBG funds made available from canceled NHS projects are more than sufficient to fund the new projects. Remaining funds will be allocated through the normal process for the 2007 Action Plan.

Pros:

1. Recaptures CDBG funds from canceled projects.
2. Allocates funds to new fast-moving projects which will enable the City to comply with HUD regulations for timeliness in spending.
3. Assists NHS in carrying out its new operating plan.
4. Addresses the goals of the City's Consolidated Housing and Community Development Plan, the Strategic Operating Plan, and the 10-Year Plan to End Homelessness by:
 - a. Providing affordable homeownership for at least 10 households city-wide.
 - b. Assisting in the creation of a crisis stabilization center for homeless and other individuals with mental illnesses.

- c. Enhancing city transit services.

Cons:

1. Reduces the potential pool of funds available for allocation through the normal competitive process for Fiscal Year 2007.

Staff recommends adoption of a resolution amending the City's 2006 Consolidated Annual Action Plan.

Vice-Mayor Jones closed the public hearing at 6:00 p.m.

Vice-Mayor Jones said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Freeborn moved to adopt Resolution No. 07-22, including an appropriation of relocation assistance funds for residents at McCormick Heights as outlined by Ms. Caplan, in an amount not to exceed \$120,000. This motion was seconded by Councilwoman Cape.

Councilman Mumpower felt that City Council jumped into considering purchasing McCormick Heights without having all the variables, and in his view, Council is doing it again with this relocation assistance. He felt that \$120,000 to move 40 people is a lot of money. He was also concerned about the City providing for cable TV hook-up. He suggested Council wait until the staff's due diligence is done before consideration of relocation assistance. The City does not have the experience in the community to throw people out in the streets and that will not happen here.

Councilman Newman asked for a friendly amendment to the motion that the City not pay for the transfer of cable TV. Councilman Freeborn and Councilwoman Cape accepted the friendly amendment.

The motion made by Councilman Freeborn to amend the City's 2006 Consolidated Action Plan with the three amendments outlined above by Ms. Caplan and the inclusion of relocation assistance funds for residents at McCormick Heights as outlined by Ms. Caplan (with the exception that the transfer of Cable TV not being paid for by the City) in the amount not to exceed \$120,000 carried on a 5-1 vote, with Councilman Mumpower voting "no."

At this time, Vice-Mayor Jones turned the meeting back over to Mayor Bellamy.

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C. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING FOR PROPERTY LOCATED AT 723 FAIRVIEW ROAD FROM RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT TO OFFICE II DISTRICT/CONDITIONAL ZONING FOR A PROPOSED

**OFFICE BUILDING INCLUDING SHARED PARKING WITH A CITY
RECREATIONAL FACILITY**

**ORDINANCE NO. 3433 ORDINANCE TO CONDITIONALLY ZONE
PROPERTY LOCATED AT 723 FAIRVIEW ROAD FROM RS-8
RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT TO
OFFICE II DISTRICT/CONDITIONAL ZONING FOR A PROPOSED
OFFICE BUILDING INCLUDING SHARED PARKING WITH A CITY
RECREATIONAL FACILITY**

Mayor Bellamy said that this public hearing was originally scheduled for January 9, 2007, but continued, at staff's request, until this date.

Mayor Bellamy opened the public hearing at 6:10 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to conditionally zone property located on 723 Fairview Road from RS-8 Residential Single-Family High Density District to Office II District/Conditional Zoning for a proposed office building including shared parking with a City recreational facility. This public hearing was advertised on December 29, 2005, and January 5, 2007.

Ms. Cogburn said that the subject properties are located within the City limits, at 723 Fairview Road and an adjoining parcel, and include all the property at 723 Fairview Road (.09 acres) along with the parking for City of Asheville recreation facilities (to the west). The property at 723 Fairview Road currently contains two (2) structures used for multi-family housing and two (2) accessory structures. The property is surrounded on three (3) sides by institutional and recreational facilities owned by the City of Asheville. All surrounding properties are zoned RS-8 (Residential Single-Family High Density District) and where not used by the City of Asheville the properties are single-family residential in nature.

The property owners, FamProp, LLC, and the City of Asheville, are requesting that the property be rezoned from RS-8 to Office II/Conditional Zoning to allow for the reuse of the existing residential structures for offices. The City of Asheville has committed to enter into a lease agreement (should this rezoning be approved) with FamProp, LLC, in order that the offices can utilize the existing parking for the adjacent ballfields at the Murphy-Oakley Center. 723 Fairview Road currently contains two residential (multi-family) structures that would be utilized for offices (approximately 6,862 square feet) under the conditional zoning request. A shed and carport on the property are also part of this application and if used would be used in conjunction with an office use. The application proposes that the conditional zoning limit the use of the buildings to office use (excluding medical offices and clinics).

Access to the buildings is via an asphalt drive that is largely located on a platted right-of-way immediately west of 723 Fairview Road. This access would continue to be utilized for handicapped parking and deliveries. All other parking would be located on the adjoining parcel owned by the City of Asheville. This parking is mostly empty during normal business hours as it

services the recreational facilities which are largely utilized in the evenings and on weekends. Access to this parking area is via an existing asphalt driveway on City of Asheville property.

Existing trees on the parcels are shown as remaining. Additional vegetation will be provided to meet City of Asheville landscape standards in the proposed parking area.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The project, if approved, must meet the technical standards set forth in the City's Unified Development Ordinance and Standards and Specifications Manual. One of the Technical Review Committee (TRC) conditions for the project was that the developer work with City staff to direct automobile traffic into the site in a safe manner for ingress and egress from Fairview Road.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The proposed project utilizes shared parking to satisfy parking needs/standards, thus preserving existing vegetation and eliminating the need for grading of the site.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The developer will utilize existing residential structures and retain the residential character and appearance of these structures. The developer will work with the City of Asheville Parks and Recreation and Planning Departments on additional plantings adjacent to the ballfield parking area (buffer for adjacent single-family homes).

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

As stated before, the developer is renovating existing residential structures for office use. These structures are in harmony with the character of other residential structures in the immediate area. The property is otherwise surrounded by institutional or recreational uses.

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**

This conditional rezoning supports the following goals of the City of Asheville: (1) Promoting the adaptive reuse of buildings in an effort to protect neighborhood viability and residential architecture; and (2) Allowing for appropriately scaled non-residential uses to be permitted in appropriate locations in residential areas.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**

The proposed use is located along City of Asheville Transit Route 12 and is located within .3 miles of the intersection of Fairview Road and I-240. All city services are available to this development.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**

The size of the office development should produce little traffic.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- The proposed retention of the existing structures supports the residential character of the surrounding Oakley neighborhood although introducing a new use into the area.
- This rezoning would introduce office use into a residentially zoned area.
- The shared parking arrangement is environmentally and economically sound.
- The developer has proposed restrictions on the use of the property restricting it to only office use (excluding medical offices or clinics that would be high traffic generators).
- The developer has met twice with the Oakley Neighborhood Association to discuss his plans for the use of the property.

This conditional zoning request was recommended for approval by the Planning and Zoning Commission (unanimously) and only one person spoke (in favor) of the zoning request.

The standard conditions are as follows:

1. The project shall comply with all conditions outlined in the TRC staff report.
2. All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets.
3. All existing vegetation that is to be preserved must be clearly indicated and

dimensioned on the site, landscape and grading plans.

4. At the direction of the Planning Director, this Project will be reviewed by the TRC

prior to issuance of any building [or grading, etc....] permits.

Mr. Clay Mooney, landscape architect for Families Together, explained some of the key aspects of the project and why it warrants Council approval.

Mr. Henry Mitchell, President of the Oakley Neighborhood Association, said that they are in unanimous support of this conditional zoning.

Mayor Bellamy closed the public hearing at 6:17 p.m.

When Councilwoman Cape questioned why Council wasn't given an overall plan for this property since the project has come before Council two other times, City Attorney Oast said that it may have been an evolutionary process.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Jones moved for the adoption of Ordinance No. 3433, to conditionally zone 723 Fairview Road from RS-8 Residential Single-Family High Density District to Office II District/Conditional Zoning for a proposed office building including shared parking with a City recreational facility conditions, subject to (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) At the direction of the Planning Director, this Project will be reviewed by the TRC prior to issuance of any building [or grading, etc....] permits; and (5) the use of the property be restricted to office use (excluding medical offices and clinics). This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

D. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED IN THE MAIN ENKA VILLAGE AREA FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 3434- ORDINANCE TO REZONE PROPERTY LOCATED IN THE MAIN ENKA VILLAGE AREA FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Mayor Bellamy opened the public hearing at 6:20 p.m.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance to rezone property located in the main Enka Village area from RM-16 Residential Multi-Family High Density District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on January 12 and 19, 2007.

Ms. Tuch said that on October 16, 2006, a letter from the Enka Park Commission was received in the Planning & Development Department; this letter outlined a request from the Commission to rezone the main Enka Village community from RM-16 to RS-8, citing a desire to retain the community's existing character. Two other portions of the historic neighborhood located on Lake Drive and Hillcrest Street are already zoned for single family residential (RS-2 and RS-4 respectively). The main Enka Village is comprised exclusively of single family homes on smaller lots where the majority of these 87 lots are a little less than a quarter acre (or more). These lots would comply with the RS-8 development standards and the reason for the RM-16 zoning is not apparent but is consistent with the zoning requested by Biltmore Farms for the Biltmore Lake residential community.

The letter from Enka Park Commission also requested the creation of an overlay zoning designed to reflect and enforce existing deed restrictions. The majority of those restrictions would be enforced through the RS-8 zoning designation but the RS-8 zoning would not provide clear restrictions against duplexes which may be established as a Use-by-right-Subject-to-Special-Requirements (USSR) in the RS-8 zoning district. As a USSR, duplexes may be established but must meet a number of architectural and design restrictions as well as a separation requirement of 300 feet between all other multi-family structures. These restrictions were designed to control the appearance and total number of duplexes in single family districts in order to prevent a change in neighborhood character. As a result, the RS-8 zoning designation does appear to afford an appropriate amount of protection to the character of the existing main Enka Village neighborhood.

RM-16 was established to provide a full range of multi-family housing types along with limited institutional, public, and commercial uses that would serve a high density area. It is intended that this district be located near employment centers, shopping facilities, roads and other infrastructure capable of handling the demand generated by high density residential development.

RS-8 was established to provide for a high density per acre of single family dwellings where public infrastructure is sufficient to support such development, and to stabilize the district's existing residential character in areas of existing high density single family development while promoting a suitable environment for single family living.

On December 6, 2006, the Asheville Planning and Zoning Commission reviewed the rezoning request and voted unanimously to approve the proposal (no discussion).

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- RS-8 zoning will not render existing lots non-conforming
- Setbacks are the same for both the RM-16 and RS-8 zoning districts
- RM-16 allows the establishment of multiple units on a single lot (multi-family)
- RS-8 is restricted to single family homes (unless pursuing a duplex as a USSR)

Staff recommends approval of the rezoning request for all 87 lots from RM-16 to RS-8.

Mr. Alan Ditmore, Vice-President of the Asheville Homeless Network, spoke against this rezoning in that it will reduce the potential of affordable housing supply.

The Chair of the Enka Park Commission, spoke in support of the rezoning, noting that the entire Village is basically low income housing.

Mayor Bellamy closed the public hearing at 6:29 p.m.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Cape moved for the adoption of Ordinance No. 3434, rezoning all 87 lots identified in the Exhibit “A” map attached to the ordinance, noting that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Vice-Mayor Jones and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

E. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED AT 346 DEPOT STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT

ORDINANCE NO. 3435- ORDINANCE TO REZONE PROPERTY LOCATED AT 346 DEPOT STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT

Mayor Bellamy opened the public hearing at 6:29 p.m.

Urban Planner Alan Glines said that this is the consideration of an ordinance to rezone property located at 346 Depot Street from RM-16 Residential Multi-Family High Density

District to Commercial Industrial District. This public hearing was advertised on January 12 and 19, 2007.

This parcel is located at the corner of Depot Street and Bartlett Street. The sloping lot has an existing building under renovation. The small area at the rear of the property that is zoned RM-16 was purchased from the City of Asheville in 2005. The staff report at that time noted the inclusion of artist studios and apartments in the building. The change in zoning will allow parking at the rear of the building to support the uses in the building.

The original action by City Council exchanged the property but did not address the owners anticipated use of the property under the existing zoning of RM-16 Residential Multi-Family High Density District. The rezoning is required to use the lot for these purposes. The area along Depot Street and the nearby river side areas are expected to transition to a mixed-use and arts district. Several lots to the south of the subject property along Depot Street were rezoned to Urban Place in April, 2005. This rezoning was accompanied by a master plan to build a new mixed-use structure on the site and restore the Glenrock Hotel. A total of 110 units were approved in the master plan along with a limited amount of non-residential uses.

The RM-16 District is established as a buffer zone between higher density commercial areas and lower density residential uses. Limited non-residential uses including institutional and commercial uses are allowed to complement the primary function of the district as a residential area. Residential density is 16 units per acre.

The Commercial Industrial District is established to provide areas for a wide range of commercial and industrial uses including: light manufacturing, wholesale and warehousing, retail sales and office uses. Residential density is 16 units per acre.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- The rezoning will allow the full range of uses for the entire lot and not separate out the back half because of the split zone.
- The sale of the original lot addition was approved by the City Council to be combined with the Depot Street parcel.
- The zoning change will support the adaptive reuse of the existing building on the parcel.

The Planning and Zoning Commission at their January 3, 2007, meeting voted 7-0 to recommend the zoning change. Staff also recommends approval of the rezoning application.

Mayor Bellamy closed the public hearing at 6:31 p.m.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Jones moved for the adoption of Ordinance No. 3435, noting that the request is reasonable based on information provided in the staff report and as stated in the recommendation. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

F. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO CHANGES TO THE BILLBOARD STANDARDS

Mayor Bellamy said that the public hearing on this matter was held on January 9, 2007, and action continued until this date in order to give the City Attorney time within which to respond to some of Council's concerns. At the request of City Attorney Oast, Councilman Mumpower moved to continue this matter until February 13, 2007. This motion was seconded by Vice-Mayor Jones and carried unanimously.

G. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO CREATE AN ADAPTIVE RE-USE OVERLAY DISTRICT

ORDINANCE NO. 3436 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO CREATE AN ADAPTIVE RE-USE OVERLAY DISTRICT

Mayor Bellamy opened the public hearing at 6:33 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville creating an adaptive reuse overlay district. This public hearing was advertised on January 12 and 19, 2007.

This code amendment is intended to implement several infill development, community compatibility, and economic development goals and strategies of the *Asheville City Development Plan 2025* through the creation of an overlay district that allows for and provides incentives for adaptively reusing valuable buildings. Asheville has a stock of fine older buildings that greatly contribute to the City's quality of life and urban character. Due to design, location, and/or condition, these buildings may become functionally obsolete for use under their current zoning. An example of this is might be a very large older home on a large lot in a single family zoning district; the home may be too large for continued use as a single family home and the only value it may have for the owner is through demolition of the house and subdivision of the site into several lots. Adaptively reusing the building and lot in their current arrangement for multifamily and/or limited office uses may well be a much better option for the owner, neighborhood, and City relative to the subdivision option.

The overlay district would "overlay" a selected portion of an existing zoning district, allowing supplementary incentives and requirements to apply to the property covered by the overlay district. The City has 10 other zoning overlay districts, including those addressing

historic preservation, downtown design review, the Blue Ridge Parkway, and manufactured housing.

The amendment has been routed to CAN, CREIA, and CIBO for review and comment.

The Planning and Zoning Commission considered this code amendment on January 3, 2007, and recommended approval of this amendment by a unanimous vote of 7-0.

Pros –

- Several goals and strategies of the 2025 Plan will be implemented.
- A wider range of land uses would be available to existing buildings, likely extending their useful life.

Con –

- Neighborhoods may regard these overlays as a form of encroachment.

City staff recommends approval of an ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville creating an adaptive reuse overlay district.

Mayor Bellamy closed the public hearing at 6:35 p.m.

Mr. Shuford responded to various questions/comments from Council, some being, but are not limited to: what is difference of this overlay and spot zoning; what process would someone have to go through if they wanted to use this overlay; who will determine where this tool will be used; and would the overlay usually apply to a street or neighborhood.

Vice-Mayor Jones would like to see the request go through the Planning & Zoning Commission prior to coming to City Council.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Cape moved for the adoption of Ordinance No. 3436. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Mayor Bellamy voting “no.”

ORDINANCE BOOK NO. 23 - PAGE

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 07-16 - RESOLUTION ESTABLISHING FAIR REUSE VALUE AND SET A PUBLIC HEARING TO CONSIDER APPROVING THE SALE CONTRACTS WITH MOUNTAIN HOUSING OPPORTUNITIES INC. FOR TWO PARCELS ON RALPH STREET AND CHOCTAW STREET IN EAST RIVERSIDE

Due to a conflict of interest, and at the request of Mayor Bellamy, Councilman Freeborn moved to excuse Mayor Bellamy from participating in this portion of the meeting. This motion was seconded by Councilman Davis and carried unanimously.

At this time, Mayor Bellamy turned the meeting over to Vice-Mayor Jones.

Mr. Ed Vess, Real Estate Manager, said that this is the consideration of a resolution establishing fair reuse value and setting a public hearing to consider the Sale and Redevelopment Contracts with Mountain Housing Opportunities, Inc. for parcels on Ralph Street and Choctaw Street in East Riverside.

On September 26, 2006, City Council accepted the Statement of Qualifications of Mountain Housing Opportunities, Inc. and the Green Family (MHO) and authorized the City Manager or his designee to negotiate a contract for the sale and redevelopment of two parcels in East Riverside pursuant to the Request for Qualifications issued by the City on May 19, 2006. Contracts have been negotiated with MHO for Ralph Street and Choctaw Street and the parcels have been appraised by BRB Appraisal Associates:

- The Ralph Street parcel is 3.8± acres and steeply sloped from Ralph Street to Town Branch with some flattening on each end. A greenway easement will be reserved along Town Branch. The recommended Fair Reuse Value based on appraisal is \$274,000.
- The Choctaw Street parcel is 5.92± acres and varies from steeply sloped along the street fronts to moderate slope and nearly level in the middle of the property. The parcel is bisected by Town Branch and a greenway easement will be reserved here also. The recommended Fair Reuse Value based on appraisal is \$426,000.

On January 10, 2007, staff reviewed the contract terms with the City Council Planning & Economic Committee and the Committee referred the contracts to City Council for approval.

Economic Development staff recommends adoption of a resolution establishing fair reuse value and setting a public hearing to approve the contracts with Mountain Housing Opportunities, Inc. for two parcels on Ralph Street and Choctaw Street in East Riverside.

Vice-Mayor Jones said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Freeborn moved for the adoption of Resolution No. 07-16. This motion was seconded by Councilman Davis and carried unanimously.

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VI. NEW BUSINESS:

VII. OTHER BUSINESS:

Councilman Freeborn said that at the January 16, 2007, meeting Council instructed our staff to develop a comprehensive plan to eliminate the open air drug market in Asheville and part of that motion was language that offered support for our Police Chief and the Police Department. He reiterated his personal support for the tremendous effort our police officers do for our community in terms of public safety and what they do day-in and day-out in terms of combating drugs. It is a hard issue to deal with on a street level, considering we do not have adequate beds for the amount of people being arrested on a daily basis, we do not have adequate sentencing, we do not have adequate job opportunities for people, and we do not have adequate child care. He hoped we can continue that support for our officers.

At this time, Vice-Mayor Jones turned the meeting back over to Mayor Bellamy.

Closed Session

At 6:54 p.m., Councilman Mumpower moved to go into closed session in order to consider the qualifications, competence, performance, character, fitness, and conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. sec. 160A-318.11 (a) (3); and (2) to prevent the disclosure of information that is confidential pursuant to 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. sec. 160A-318.11 (a) (2). This motion was seconded by Councilman Freeborn and carried unanimously.

At 7:50 p.m., Councilman Freeborn moved to come out of closed session. This motion was seconded by Councilwoman Cape and carried unanimously.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 7:50 p.m.

CITY CLERK

MAYOR